



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-856]

Steel Threaded Rod from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) preliminarily determines that countervailable subsidies are being provided to producers and exporters of steel threaded rod from India. The period of investigation (“POI”) is January 1, 2012, through December 31, 2012. For information on the estimated subsidy rates, see the “Suspension of Liquidation” section of this notice.

DATES: EFFECTIVE DATE: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Brooke Kennedy, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3818.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been

applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise. For a complete description of the scope of the investigation, *see* Appendix 1 to this notice.

Methodology

The Department is conducting this countervailing duty (“CVD”) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (“the Act”). For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.¹ The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/enforcement/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually investigated producer/exporter of the subject merchandise. Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not individually investigated, we will determine

¹ *See* Memorandum from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation on Steel Threaded Rod from India,” dated concurrently with this notice (“Preliminary Decision Memorandum”).

an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of subject merchandise to the United States. However, the all-others rate may not include zero and *de minimis* rates or any rates based solely on the facts available. In this investigation, the only rate that is not *de minimis* or based entirely on facts available is the rate calculated for Mangal Steel Enterprises Ltd. ("Mangal"). Accordingly, the rate calculated for Mangal is also assigned as the all-others rate. For further information, *see* the Preliminary Decision Memorandum.

Use of Facts Otherwise Available – Babu Exports ("Babu")

Babu is a producer/exporter that was selected for investigation. On September 6, 2013, the Department issued a questionnaire to Babu and confirmed that Babu received the questionnaire.² Babu never responded to the Department's questionnaire.

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) Withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Babu did not provide any of the information requested by the Department that is necessary to determine a CVD rate for this preliminary determination. As a result, we have none of the data necessary to calculate a subsidy rate for Babu. Accordingly, in reaching our

² See the Department's memorandum, "Babu Exports Original Questionnaire Delivery Confirmation," dated September 14, 2013.

preliminary determination, pursuant to section 776(a)(2)(A) and (C) of the Act, we have based Babu's CVD rate on facts otherwise available.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available ("AFA") information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

The Department preliminarily determines that an adverse inference is warranted, pursuant to section 776(b) of the Act because, by not responding to our requests for information, Babu failed to cooperate by not acting to the best of its ability. Accordingly, our preliminary determination is based on AFA. For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

Selection of the Adverse Facts Available Rate

In CVD proceedings, the Department computes a total AFA rate for the non-cooperating company using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.³ Specifically, the Department applies the highest calculated rate for the identical program in the investigation if a responding company used the identical program,

³ See, e.g., *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 70971, 70975 (November 24, 2008) (unchanged in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180, (June 19, 2009), and accompanying Issues and Decision Memorandum at "Application of Facts Available, Including the Application of Adverse Inferences").

and the rate is not zero.⁴ If there is no identical program match within the investigation, or if the rate is zero, the Department uses the highest non-*de minimis* rate calculated for the same or similar program (based on treatment of benefit) in another CVD proceeding involving the same country. Absent an above *de minimis* subsidy rate calculated for the same or similar program in the same country, the Department applies the highest calculated subsidy rate for any program otherwise identified in a CVD case involving the same country that could be used by the non-cooperating company.⁵

For a discussion of the application of the individual AFA rates for programs preliminarily determined to be countervailable, *see* Preliminary Decision Memorandum.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. In the instant case, the Department preliminarily finds that the information used has been corroborated to the extent practicable. For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

Alignment of Final Determination

On July 29, 2013, the Department initiated an antidumping (“AD”) investigation concurrent with this CVD investigation of steel threaded rod.⁶ The scope of the merchandise

⁴ There is an exception to this approach for income tax exemption and reduction programs; however, since there are no such programs in this investigation, the exception is not applicable here.

⁵ *See, e.g., Aluminum Extrusions From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521, (April 4, 2011), and accompanying Issues and Decision Memorandum at “Application of Adverse Inferences: Non-Cooperative Companies.”

⁶ *See Steel Threaded Rod from India and Thailand: Initiation of Antidumping Duty Investigations*, 78 FR 44526 (July 24, 2013).

being covered is the same for both the AD and CVD investigations. On December 11, 2013, Petitioners submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final CVD determination with the final determination in the companion AD investigation. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on April 28, 2014.

Preliminary Determination and Suspension of Liquidation

We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy Rate (percent)
Mangal Steel Enterprises Ltd. (“Mangal”)	8.13
Babu Exports (“Babu”)	38.98
All Others	8.13

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of steel threaded rod from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the *Federal Register*, and to require a cash deposit for such entries of the merchandise in the amounts indicated above.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of public announcement of this determination.⁷ Interested parties may submit case and rebuttals briefs.⁸ For a schedule of the

⁷ See 19 CFR 351.224(b).

⁸ See 19 CFR 351.309.

deadlines for filing case briefs, rebuttal briefs, and hearing request, *see* the Preliminary Determination Memorandum.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: December 11, 2013.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix 1

Scope of the Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are nonheaded and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of this investigation are steel threaded rod, bar, or studs, in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, 7318.15.5090 and 7318.15.2095 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of this investigation are: (a) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials

(“ASTM”) A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, and ASTM A320 Grade L7.

Appendix 2

List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope Comments
2. Scope of the Investigation
3. Injury Test
4. Subsidies Valuation
5. Use of Facts Otherwise Available
6. Analysis of Programs
7. Calculation of the All Others Rate
8. ITC Notification
9. Disclosure and Public Comment
10. Verification
- 11.
- 12.
13. [FR Doc. 2013-30113 Filed 12/18/2013 at 8:45 am; Publication Date: 12/19/2013]